IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20407 of 2006
To
SPECIAL CIVIL APPLICATION No. 20409 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KESHOD MUNICIPALITY - Petitioner(s)
Versus
VINUBHAI NATHABHAI MARU - Respondent(s)

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Appearance :
MR DEEPAK P SANCHELA for Petitioner(s) : 1,
MR UTKARSH B JANI for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 11/12/2006

COMMON ORAL JUDGMENT

RULE returnable today. Mr.Jani waives service of rule. With the consent of the learned advocates, the petitions are heard and disposed of today.

These three petitions are preferred by the Keshod Municipality (hereinafter referred to as, **"the Municipality"**) against the order dated 7th August, 2006 made on Misc. Applications Nos.4/2006, 5/2006 and 6/2006 in so far as each workman has been awarded a sum of Rs.12,000=00.

Against the termination of their service, the respondents-workmen raised industrial dispute which came to be referred to the Labour Court, Junagadh and registered as Reference (LCJ) Nos.47/2004, 52/2004 and 53/2004. Admittedly, the said References were not attended by the Municipality and were decided ex-parte on 1st May, 2006. Feeling aggrieved, the Municipality took out above referred Misc. Applications Nos.4/2006, 5/2006 and 6/2006 under Rule 26A of the Industrial Disputes (Gujarat) Rules, 1966 for setting-aside the ex-parte award and for restoration of the References. The said applications have been allowed by the learned Labour Judge on condition that each workman be paid a sum of Rs.12,000=00. Therefore, the present petitions.

Mr.Sanchela has assailed the impugned order. He has submitted that the cost of Rs.12,000=00 awarded to each workman as a condition for restoration is an exorbitant amount and the Municipality will not be able to pay the same.

Mr.Jani has supported the impugned order. He has submitted that the workmen have been litigating for a long time and deserve the cost imposed under the impugned award.

On the facts and in the circumstances of the case, the petitions are allowed. The impugned order dated 7th August, 2006 is modified to the extent that each workman will be entitled to a cost of Rs.2,500=00. The Municipality shall also pay a sum of Rs.5,000=00 to each workman against the back-wages.

In the event, the workmen succeed in the above referred references and are awarded the back-wages, the aforesaid sum of Rs.5,000=00 shall be adjusted

against the back-wages awarded to the workmen. In the event, the workmen lose in the references or are not awarded the back-wages, the aforesaid sum of Rs.5,000=00 shall not be recovered by the Municipality.

The aforesaid cost of Rs.2,500=00 shall be paid to each workman within fifteen days from today. The remaining sum of Rs.5,000=00 shall be paid to each workman as expeditiously as possible but not later than 15th January, 2007. Rule is made absolute to the above extent. The parties shall bear their own cost.

Registry will maintain copy of this order in each petition.

(Ms. R.M.Doshit, J.)

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